## Before the FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

JUL 1 5 1993

In the Matter of

Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992

Development of Competition and Diversity in Video Programming Distribution and Carriage

To: The Commission

FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

MM Docket No. 92-265

## **ERRATUM**

Liberty Cable Company, Inc. yesterday filed an Opposition to Petitions For Reconsideration in the above-referenced proceeding. Upon reviewing the Opposition, it was discovered that the Attachment to the Opposition was inadvertently omitted. Accordingly, the Attachment is being submitted herewith, and it is respectfully requested that the subject Attachment be associated with Liberty Cable Company, Inc.'s Opposition To Petitions For Reconsideration.

> Respectfully submitted, LIBERTY CABLE COMPANY, ANG.

> > Henry M. Rivera

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ITS ATTORNEYS

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Dated: July 15, 1993

PETER O. PRICE President June 17, 1993

The Honorable Robert Abrams Attorney General State of New York 120 Broadway, 25th Floor New York, NY 10271

Dear Mr. Abrams:

Liberty Cable Television has for over one year requested Court TV for our SMATV system in New York. We have done so before The Cable Act of 1992, after passage of The Cable Act of 1992, and most recently after the FCC rulemaking to implement program access requirements of The Cable Act of 1992. In spite of these repeated requests Court TV, owned by Time Warner and other companies described as Primestar Partners L.P. in the recent Final Judgement prohibiting the withholding of programs from competitors, has consistently refused to sell Liberty Cable its programming based upon an illegal contract in restraint of trade.

Liberty Cable at great expense appealed to the New York City Department of Telecommunications and Energy to declare this blatantly discriminatory and anti-competitive behavior a violation of Time Warner's franchise. In spite of a Court mandated investigation of such conduct, and a persistent unwillingness of Time Warner to acknowledge any fault, the City of New York still refuses to recognize any violation of law by the defendant.

During this protracted litigation and refusal to deal with Liberty, Time Warner has mailed to its subscribers, and specifically to buildings where Liberty seeks to compete, the attached disparaging and blatantly unlawful material, asserting inter alia that "Time Warner Cable of New York City carries many program services not available with Liberty including ... Court TV." Such conduct flouts the spirit and the letter of the Final Judgement. Liberty requests that your office take immediate action to enforce the order of The District Court demand that Time Warner

## THE CABLE TV FACT SHIELE

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Signal Reliability: In Manhattan, underground transmission of video signals via fiber and coaxial cable is the optimum method to achieve superior reliability. Microwave transmission, used by Liberty, has a long history of questionable reliability. During recent storms in New York City, entire Liberty buildings were without service for up to three days. During the recent World Trade Center explosion, Liberty customers and non-cable TV homes lost many broadcast signals for the day, while Time Warner Cable of New York City customers benefitted from our direct feed from the networks and received all critical programming.

Experience: Crain's New York Business has noted that Liberty's chairman, Peter Price, "has no experience in cable. His record has been marked with less than stunning successes, including a bumpy tenure at the Post and at The National, the sports daily newspaper that ceased publication in 1991 amid huge losses."

Regulatory Controls: In the same Crain's article, Commissioner William F. Squadron of the New York City Department of Telecommunications and Energy (DTE) warns consumers to be cautious with systems such as Liberty, stating "There is less protection for the consumer since they're unregulated." Time Warner Cable of New York City is a cable television company franchised by the City and State of New York. As such, it is subject to a host of regulations by the City DTE, the State Commission on Cable Television, and the Federal Communications Commission (FCC). Those agencies regulate virtually every aspect of Time Warner Cable of New York City's operation. Liberty, an unfranchised operator, has an FCC microwave license, but is not regulated in any other respect by the FCC or the City or State regulatory agencies. You may be saddled with Liberty service for up to 10 years with no recourse to the cable regulatory agencies.

Programming: Time Warner Cable of New York City offers 57 channels of Standard Plus service, compared to Liberty's 44-channel service. Time Warner Cable of New York City carries many program services not available with Liberty, including New York 1 News-- New York City's only all-news television channel, Court TV, Nostalgia Television, Cartoon Network, VISN, The Box, QVC, 9 municipal and public access channels, and 3 Time Warner Home Theatre pay-per-view channels.

Converter Boxes: While Liberty claims that no converter box is needed, those customers who wish to subscribe to HBO or other premium services must have a converter box. Liberty charges \$10 for every additional converter box, while Time Warner Cable of New York City does not charge for the converter for the primary outlet and charges only \$9 for each additional outlet, which includes all premium services ordered on the primary set.

Contract Term and Price: Liberty typically seeks 5 or 10 year contracts and requires the building owners to subscribe to cable service for all building residents. Time Warner Cable of New York City normally charges only residents who want cable service and permits subscribers to cancel whenever they want. Also, Time Warner Cable of New York City offers bulk rates to buildings with 15 or more units. Our bulk rates are very competitive with 1 ibortain normalization of the acceptance of particles that we offer

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## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Erratum were served, this 15th day of July, 1993, by U.S. mail, first-class postage prepaid, upon the following:

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